

Government of the District of Columbia

ZONING COMMISSION



ZONING COMMISSION ORDER NO. 608-B

Case No. 93-7C/88-21C

(Colony House PUD)

June 14, 1993

Pursuant to notice, a public hearing of the Zoning Commission for the District of Columbia was held on June 3, 1993. At that hearing session, the Zoning Commission considered an application from the Peoples Economic Development Corporation (PEDC) for consolidated review and reapproval of a planned unit development (PUD), pursuant to Chapter 24 of the District of Columbia Municipal Regulations (DCMR), Title 11, Zoning. The public hearing was conducted in accordance with the provisions of 11 DCMR 3022.

FINDINGS OF FACT

1. The application, which was filed on April 23, 1993, requested the Zoning Commission to reapprove a PUD for Lots 846 and 852 in Square 3008. PEDC is a wholly-owned subsidiary of Peoples Involvement Corporation (PIC).
2. On April 10, 1989, by Z.C. Order No. 608 in Case No. 88-21C, the Zoning Commission granted approval of an application from the same applicant for consolidated review and approval of a PUD for the same project on the same site as is now before the Commission.
3. The PUD approval was for demolition and replacement of the theater structure with senior citizen housing units and ground floor retail space, subject to certain guidelines, conditions and standards.
4. Z.C. Order No. 608 became final and effective on June 9, 1989, and was valid for a period of two years, until June 9, 1991, provided that an application for a building permit was filed within that period of time. The order specified that construction must start within three years; that is, by June 9, 1992.
5. On December 17, 1990, by Z.C. Order No. 608-A, the Zoning Commission granted approval of a request from the applicant to extend the validity of Z.C. Order No. 608. Z.C. Order No. 608-A extended the validity of the PUD approval for a period of one year; that is, the deadline for filing an application for a building permit was extended until June 9, 1992, and the

deadline for beginning construction of the PUD was extended until June 9, 1993.

7. The applicant did not apply for a building permit prior to June 9, 1992, and on April 12, 1993, the Zoning Commission ruled that the PUD had expired.
8. The applicant indicated that the project experienced substantial delay in the processing of an application for financial assistance from the U.S. Department of Housing and Urban Development (HUD) under the Section 202 Program and was not able to proceed within the time frame of the original PUD approval.
9. The applicant also indicated that it has now received approval of a Conditional Commitment for financing from HUD. The application for the Final Commitment must be filed by July 1, 1993, and must indicate that zoning approvals are in place or the financing for the project will be in jeopardy.
10. On April 12, 1993, the Zoning Commission was persuaded that the circumstances set forth in Findings of Fact No. 9 of this order constitute "good cause" to justify the waiver of various applicable rules of practice and procedure to allow for the expeditious processing of a new application.
11. The instant application seeks to obtain approval of exactly the same project as approved by the Zoning Commission in Z.C. Order No. 608, for a new two-year period beginning with the issuance of a new order.
12. The entire record in Z.C. Case No. 88-21C is incorporated into the record of the subject case, that is Z.C. Case No. 93-7C.
13. The applicant indicated that there have been no changes in the following since the approval of the previous PUD application:
 - a. The PUD project, pursuant to Z.C. Order No. 608;
 - b. The zoning of property in the vicinity of the PUD site;
 - c. The designation of the PUD site on the Generalized Land Use Map of the Comprehensive Plan for the National Capital; and
 - d. The conditions in the neighborhood of the PUD site.
14. The District of Columbia Office of Planning (OP), by memorandum dated May 20, 1993 and by testimony presented at the public hearing, reiterated its previous recommendation

that the application be granted, subject to the applicant receiving some design flexibility.

15. Advisory Neighborhood Commission 4D did not submit anything in writing nor did it participate in the public hearing.
16. The Zoning Commission concurs with the position of the applicant and the recommendation of the Office of Planning. The Commission notes that it did grant design flexibility to the applicant in Z.C. Order No. 608.
17. The Zoning Commission finds that those conditions in the subject area that would affect land use and zoning concerns have not changed since the original PUD approval.
18. The Zoning Commission believes that in this instance reapproval of the identical proposal is reasonable and appropriate.
19. The Zoning Commission hereby incorporates the findings of fact set forth in Z.C. Order No. 608 into this order.
20. The proposed decision of the Zoning Commission to reapprove Z.C. Order Nos. 608 and 608-A was referred to the National Capital Planning Commission (NCPC), under the terms of the District of Columbia Self-Government and Governmental Reorganization Act. NCPC, by report dated June 11, 1993, found that the proposed PUD would not adversely affect the Federal Establishment or Federal interests in the National Capital, nor be inconsistent with the Comprehensive Plan for the National Capital.

CONCLUSIONS OF LAW

1. The Zoning Commission hereby incorporates the conclusions of law set forth in Z.C. Order No. 608 into this order.
2. Advisory Neighborhood Commission 4D did not participate in this application or the proceedings thereof, and is therefore not entitled to "great weight" consideration.

DECISION

In consideration of the Findings of Fact and Conclusions of Law set forth herein and set forth in Z.C. Order Nos. 608 and 608-A, the Zoning Commission for the District of Columbia hereby orders **APPROVAL** of this application for consolidated review and reapproval of a planned unit development (PUD) for Lots 846 and 852 in Square 3008 located in the square bounded by Georgia Avenue, and Farragut,

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Emerson, and 9th Streets N.W. This PUD approval is subject to the following:


1. The guidelines, conditions and standards set forth in Z.C. Order Nos. 608 and 608-A, as modified by this order.
2. No building permit shall be issued for this planned unit development until the applicant has recorded a covenant in the land records office of the District of Columbia and satisfactory to the Office of the Corporation Counsel and the Zoning Division of the Department of Consumer and Regulatory Affairs (DCRA), which covenant shall bind the applicant and successors in title to construct on and use the PUD site in accordance with this order, and any amendments thereto, of the Zoning Commission.
3. The recorded covenant shall include a true copy of Z.C. Order Nos. 608, 608-A and 608-B that the Director of the Office of Zoning has so certified.
4. The Office of Zoning shall not release the record of Case No. 93-7C/88-21C or Case No. 88-21C to the Zoning Division of DCRA until the applicant has filed a certified copy of the covenant in the record of the Zoning Commission.
5. The planned unit development reapproved by the Zoning Commission shall be valid for a period of two years from the effective date of this order. Within that time, application must be filed for the building permit, as specified in 11 DCMR 2406.8 and 2407.1. Construction shall start within three years of the effective date of this order.

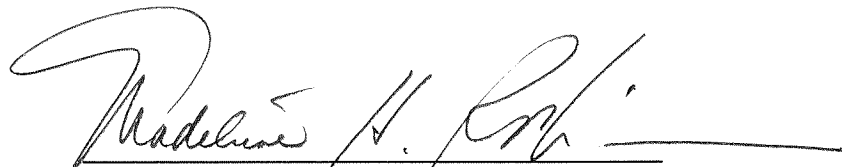
Vote of the Zoning Commission taken at the public hearing on June 3, 1993: 3-0 (Lloyd D. Smith, William L. Ensign and Maybelle Taylor Bennett, to approve - John G. Parsons and Tersh Boasberg, not present, not voting).

This order was adopted by the Zoning Commission at its regular monthly meeting on June 14, 1993 by a vote of 3-0 (William L. Ensign and Maybelle Taylor Bennett, to adopt and Lloyd D. Smith, to adopt by absentee vote - Tersh Boasberg and John G. Parsons, not voting, not having participated in the case).

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In accordance with the provisions of 11 DCMR 3028, this order is
final and effective upon publication in the D.C. Register; that is,
on JUN 25 1993.


MAYBELLE TAYLOR BENNETT
Chairperson
Zoning Commission


MADELIENE H. ROBINSON
Director
Office of Zoning

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